

REMARKS

Entry and consideration of the Amendment is respectfully requested. Applicants submit the Amendment places the application in condition for allowance and raises no issues not previously considered by the Examiner.

Claim 20 has been amended. The amendment is supported throughout the specification, including at page 13, lines 30-35, and raises no issues of new matter. After entry of the amendment, claims 20 and 39-44 will be pending.

Petition for Extension of Time

It is noted that a one-month petition for extension of time is necessary to provide for the timeliness of the response. A request for such an extension is made extending the time for response from July 5, 2004 to August 5, 2004.

Sequence Identification

The Examiner asserted the specification fails to comply with the sequence identification requirements. Applicants amended the portion of the specification identified by the Examiner to include sequence identification numbers where appropriate. Withdrawal of this rejection is respectfully requested.

Obviousness Type Double Patenting

The Examiner rejected claims 20 and 39-44 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-11 and 15-25 of U.S.

Patent No. 5,859,206. Applicants hereby submit a terminal disclaimer to obviate this rejection and respectfully request withdrawal of the rejection.

Information Disclosure Statement

Applicants hereby resubmit for consideration an IDS that was previously submitted on January 8, 2004 citing an Amendment and Office Action from the file history of U.S. Patent No. 5,875,482. These documents were publicly available as of date of issuance of the patent. Applicants respectfully request that the Examiner consider these references and return the initialed 1449 form. Applicants also submit another Supplemental Information Disclosure Statement.

Written Description

The Examiner rejected claims 20 and 39-44 under 35 U.S.C. § 112, first paragraph, as lacking written description. The Examiner asserted a genus of heregulin 2 α polypeptides is not fully described in the specification. To expedite prosecution of the present application, claim 20 has been amended to recite an antibody that binds to a human polypeptide that has at least 80% sequence identity to human heregulin 2 α comprising an amino acid sequence of SEQ ID NO: 11, wherein the polypeptide stimulates tyrosine phosphorylation of p185^{HER2}. Applicants, however, do not expressly concede the propriety of the rejection and reserve the right to pursue claims corresponding to the subject matter within the scope of the subject matter of the claims as originally filed in a continuation application.

In view of the Amendment, withdrawal of this rejection is respectfully requested.

Request for an Interview

Applicants request that the Examiner contact Applicants' representative upon receipt of these papers in order to schedule an interview.

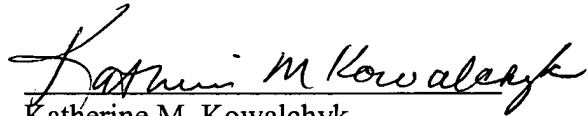
Summary

In light of the forgoing Amendment and Remarks, Applicants' assert the claims are in condition for allowance. Early notice of allowable claims is requested. The Examiner is invited to telephone the undersigned attorney for clarification of any of these Remarks or Amendments, or to otherwise speed prosecution of this case.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: July 28, 2004


Katherine M. Kowalchuk
Reg. No. 36,848
KMK:EED:sab

23552
PATENT TRADEMARK OFFICE